

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

V.

BIOVAIL CORPORATION,
EUGENE N. MELNYK,
BRIAN CROMBIE,
JOHN MISZUK, and
KENNETH G. HOWLING

Defendants.

[illegible]

No. 08 CIV 02979 (LAK)
(GWG)

ECF Case

JURY TRIAL DEMANDED

**INITIAL DISCLOSURES OF DEFENDANT JOHN MISZUK
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 26(a)(1)**

Defendant John Miszuk, by and through his undersigned attorneys, hereby submits the following initial disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure. Mr. Miszuk makes these disclosures based on information reasonably available to him as of June 13, 2008, and reserves the right to clarify, amend, modify, or supplement these disclosures pursuant to Rule 26(e)(1) as discovery continues.

Mr. Miszuk's identification of categories of documents does not constitute a representation or implied representation that any particular document exists within his possession, custody, or control. Mr. Miszuk does not hereby represent that he is identifying every document or witness that he may use in support of his defenses. Neither does Mr. Miszuk waive any applicable privilege or protection, or his right to object on any grounds to the use of any documents or information identified herein in this or any other proceeding. Rather, these

disclosures represent Mr. Miszuk's good faith effort, at the outset of discovery, to identify information subject to the disclosure requirements of Rule 26(a)(1). Nothing in these disclosures shall constitute an admission, waiver, or concession on the part of Mr. Miszuk with respect to any claims or issues of fact or law.

INITIAL DISCLOSURES

I. IDENTIFICATION OF INDIVIDUALS

Subject to the above-stated reservations, Mr. Miszuk submits the following initial disclosure of individuals likely to have discoverable information that Mr. Miszuk may use to support his defenses, other than solely for impeachment:

1. The following parties to this action:

Biovail Corporation, including but not limited to employees Carol Chapuis, Neil Smith, Larry Thiessen, Le'Rain Dunn, Julie Sabourin, Peter McLean, and Arlene Fong
7150 Mississauga Road
Mississauga, Ontario L5N 8M5
Canada
Tel: (905) 286-3000

Eugene Melnyk
c/o Lanny Breuer, Esq.
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1201 Pennsylvania Avenue, NW
Washington, DC 20004
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Brian Crombie
c/o David M. Becker, Esq.
Cleary Gottlieb Steen & Hamilton LLP
2000 Pennsylvania Avenue, NW
Washington, DC 20006-1801
Tel: (202) 974-1500

Kenneth G. Howling
c/o Carmen J. Lawrence, Esq.
Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza

New York, NY 10004-1980
Tel: (212) 859-8000

Subject(s): Information concerning the allegations set forth in the Complaint in support of the Second through Seventh Claims for Relief asserted against Mr. Miszuk and certain co-defendants, including but not limited to information concerning Biovail Corporation's third-quarter 2003 earnings, the Development, License and Copromotion Agreement between SmithKline Beecham Corporation ("Glaxo") and Biovail Laboratories Incorporated (the "GSK Contract") and manufacturing and sales issues thereunder; Biovail Corporation's accounting for certain transactions in the second, third and fourth quarters of 2003, including revenue recognition under a bill and hold transaction and a foreign exchange valuation of debt under the GSK Contract; and the 2004 restatement of earnings.

2. Jack Davis
c/o Glaxo SmithKline
1011 N. Arendell Avenue
Zebulon, NC 27597

Subject(s): Information concerning the GSK Contract and orders thereunder.

3. Richard Dyer
c/o Glaxo SmithKline
1011 N. Arendell Avenue
Zebulon, NC 27597

Subject(s): Information concerning the GSK Contract and orders thereunder.

4. Joseph Stanley Hull
c/o Glaxo SmithKline
1011 N. Arendell Avenue
Zebulon, NC 27597

Subject(s): Information concerning the GSK Contract and orders thereunder.

5. Employees and officers of Ernst & Young who were involved in the quarterly and yearly audit of Biovail's financials during 2003 and 2004, including but not limited to

Robert Scullion
c/o Jerome Snider, Esq.
Davis, Polk & Wardwell
450 Lexington Avenue
New York, N.Y. 10017
212-450-4000

Douglas Cameron
c/o Jerome Snider, Esq.
Davis, Polk & Wardwell
450 Lexington Avenue
New York, N.Y. 10017
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Martin Lundie
c/o Jerome Snider, Esq.
Davis, Polk & Wardwell
450 Lexington Avenue
New York, N.Y. 10017
212-450-4000

Subject(s): Information concerning the allegations set forth in the Complaint in support of the Second through Seventh Claims for Relief asserted against Mr. Miszuk and certain co-defendants, including but not limited to information concerning Biovail Corporation's accounting for certain transactions in the second, third and fourth quarters of 2003, including revenue recognition under a bill and hold transaction and a foreign exchange valuation of debt under the GSK Contract; and the 2004 restatement of earnings.

II. IDENTIFICATION OF DOCUMENTS

Subject to the above-stated reservations, Mr. Miszuk makes the following initial disclosure of documents, electronically stored information, and tangible things that are in Mr. Miszuk's possession, custody, or control and which Mr. Miszuk may use to support his defenses, other than solely for impeachment: documents formerly in the possession, custody or control of Biovail Corporation and already produced to the SEC pursuant to subpoenas issued to Biovail Corporation during the SEC's pre-litigation investigation of the issues in this case.

III. COMPUTATION OF DAMAGES

Mr. Miszuk is not seeking damages in this action.

IV. INSURANCE AGREEMENTS

Not applicable.

Respectfully Submitted,
**CADWALADER, WICKERSHAM & TAFT,
LLP**

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Dated: June 13, 2008